

SUBCHAPTER G—REGULATIONS UNDER TAX CONVENTIONS

PARTS 500–501 [RESERVED]

PART 502—GREECE

Subpart—Withholding of Tax

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Subpart—Withholding of Tax

§ 502.1 Introductory.

(a) The income tax convention and protocol between the United States and Greece, signed February 20, 1950, and April 20, 1953, respectively, and proclaimed by the President of the United States on January 15, 1954, referred to in this part as the convention, provides in part as follows effective January 1, 1953:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the case of the United States of America: the Federal income tax, including surtaxes (hereinafter referred to as United States tax).

(b) In the case of the Kingdom of Greece: the income tax, including the schedular or analytical tax, the complementary tax and

the professional or business tax (hereinafter referred to as Greek tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character imposed by either Contracting State subsequently to the date of signature of the present Convention.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires—

(a) The term “United States” means the United States of America and when used in a geographical sense means the States, the Territories of Alaska and Hawaii, and the District of Columbia.

(b) The term “Greece” means the territories of the Kingdom of Greece.

(c) The term “United States Corporation” means a corporation, association or other like entity created or organized in or under the laws of the United States.

(d) The term “Greek Corporation” means a legal entity established under the laws of Greece.

(e) The terms “corporations of one Contracting State” and “corporation of the other Contracting State” mean a United States corporation or a Greek corporation, as the context requires.

(f) The term “United States enterprise” means an industrial or commercial enterprise or undertaking carried on in the United States by a citizen or resident of the United States or by a United States corporation.

(g) The term “Greek Enterprise” means an industrial or commercial enterprise or undertaking carried on in Greece by a subject or resident of Greece or by a Greek corporation.

(h) The terms “enterprise of one of the Contracting States” and “enterprise of the other Contracting State” mean a United States enterprise or a Greek enterprise, as the context requires.

(i) The term “permanent establishment”, when used with respect to an enterprise of one of the Contracting States, means a branch, factory or other fixed place of business, but does not include an agency unless that agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on behalf of such enterprise. An enterprise of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business dealings in such other Contracting State through a bona fide commission agent, broker or custodian acting in the ordinary course of his business as such. The fact that

an enterprise of one of the Contracting States maintains in the other Contracting State a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute such fixed place of business a permanent establishment of such enterprise. When a corporation of one Contracting State has a subsidiary corporation which is a corporation of the other Contracting State or which is engaged in trade or business in such other Contracting State, such subsidiary corporation shall not, merely because of that fact, be deemed to be a permanent establishment of its parent corporation.

(j) The term “competent authority” or “competent authorities” means, in the case of the United States, the Commissioner of Internal Revenue or his duly authorized representative; in the case of Greece, the General Director of Direct Taxes, or his duly authorized representative.

(2) In the application of the provisions of the present Convention by either of the Contracting States, any term which is not defined in the present Convention shall, unless the context otherwise requires, have the meaning which that term has under the laws of such Contracting State relating to the taxes which are the subject of the present Convention.

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ARTICLE VI

(1) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) received from sources within the United States by a resident or corporation of Greece not engaged in trade or business in the United States through a permanent establishment therein, shall be exempt from United States tax; but such exemption shall not apply to such interest paid by a United States corporation to a Greek corporation controlling, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation.

(2) Interest (on bonds, securities, notes, debentures, or on any other form of indebtedness) received from sources within Greece by a resident or corporation of the United States not engaged in trade or business in Greece through a permanent establishment therein, shall be exempt from Greek tax but only to the extent that such interest does not exceed 9 percent per annum; but such exemption shall not apply to such interest paid by a Greek corporation to a United States corporation controlling, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation.

ARTICLE VII

Royalties for the right to use copyrights, patents, designs, secret processes and for-

mulae, trade marks and other analogous property, and royalties (including rentals), (other than those in respect of motion picture films) for the use of industrial, commercial or scientific equipment, derived from sources within one of the Contracting States by a resident or corporation of the other Contracting State not engaged in trade or business in the former State through a permanent establishment therein, shall be exempt from tax by the former State.

ARTICLE VIII

A resident or corporation of one of the Contracting States, deriving from sources within the other Contracting State royalties in respect to the operation of mines, quarries, or other natural resources, or rentals from real property, may elect for any taxable year to be subject to the tax of such other Contracting State on the basis of net income as determined under the laws of such other Contracting State during such taxable year.

ARTICLE IX

Dividends and interest paid by a Greek corporation shall be exempt from United States tax except where the recipient is a citizen, resident or corporation of the United States.

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ARTICLE XI

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(2) Private pensions and life annuities derived from within one of the Contracting States by an individual who is a resident of the other Contracting State shall be exempt from taxation by the former Contracting State.

(3) The term “pensions” as used in this Article means periodic payments made in consideration for services rendered or by way of compensation for injuries received.

(4) The term “life annuities” as used in this Article means a stated sum payable periodically at stated times during life, or during life, an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

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ARTICLE XV

(1) The authorities of each of the Contracting States, in accordance with the practices of that State, may prescribe regulations necessary to carry out the provisions of the present Convention.

(2) With respect to the provisions of the present Convention relating to exchange of information and mutual assistance in the

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collection of taxes, the Contracting States may, in accordance with their respective practices, prescribe rules concerning matters of procedure, forms of application and replies thereto, conversion of currency, disposition of amounts collected, minimum amounts subject to collection, and related matters.

ARTICLE XVI

(1) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the Contracting States in the determination of the taxes imposed by such State.

(2) Should any difficulty or doubt arise as to the interpretation or application of the present Convention, the competent authorities of the Contracting States shall undertake to settle the question by mutual agreement.

(3) The citizens or subjects of one of the Contracting States shall not, while resident in the other Contracting State, be subjected therein to other or more burdensome taxes than are the citizens or subjects of such other Contracting State residing in its territory. The term "citizens" or "subjects", as used in this Article, includes all legal persons, partnerships and associations deriving their status from, or created or organized under, the laws in force in, the respective Contracting States. In this Article the word "taxes" means taxes of every kind or description whether national, federal, state, provincial or municipal.

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ARTICLE XVIII

The competent authorities of the Contracting States shall exchange such information (being information which such authorities have at their disposal) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any person other than those concerned with the assessment, and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose a technical secret, or process relating to trade, industry, business, or a profession.

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ARTICLE XX

(1) In no case shall the provisions of Article XVIII and XIX be construed so as to im-

pose upon either of the Contracting States the obligation:

(a) To carry out administrative measures at variance with the regulations and practice of either Contracting State, or

(b) To supply information which is not procurable under its own legislation or that of the State making application.

(2) The State to which application is made for information or assistance shall comply as soon as possible with the request addressed to it. Nevertheless, such State may refuse to comply with the request for reasons of public policy or if compliance would involve disclosure of a technical secret or process relating to trade, industry, business, or a profession. In such case it shall inform, as soon as possible, the State making the application.

ARTICLE XXI

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at Athens as soon as possible.

(2) The present Convention shall become effective on the first day of January of the year in which the exchange of the instruments of ratification takes place. It shall continue effective for a period of five years beginning with that date and indefinitely after that period, but may be terminated by either of the Contracting States at the end of the five-year period or at any time thereafter, provided that at least six months' prior notice of termination has been given, the termination to become effective on the first day of January following the expiration of the six-month period.

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(b) As used in this part, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws.

§ 502.2 Dividends.

(a) Dividends paid on or after January 1, 1953, by a Greek corporation are exempt from United States tax under the provisions of Article IX of the convention if the recipient is not a citizen, resident, or corporation of the United States. Such dividends are, therefore, not subject to the withholding of United States tax at source.

(b) The convention does not change the rate of United States tax imposed pursuant to sections 871, 881, and 882 of the Internal Revenue Code of 1954 upon dividends paid by a corporation other

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than a Greek corporation. The withholding of United States tax with respect to such dividends derived from sources within the United States by nonresident aliens who are residents of Greece, or by Greek corporations, is not changed by the convention.

§ 502.3 Interest.

(a) *General.* (1) Interest paid on or after January 1, 1953, by a Greek corporation is exempt from United States tax under the provisions of Article IX of the convention if the recipient is not a citizen, resident, or corporation of the United States. Interest paid to such recipients is, therefore, not subject to the withholding of United States tax at source.

(2) Interest (other than interest falling within the scope of paragraph (b) of this section) on bonds, securities, notes, debentures, or on any other form of indebtedness, including interest on obligations of the United States, obligations of instrumentalities of the United States, and mortgages and bonds secured by real property, which is paid by a person other than a Greek corporation and which is received from sources within the United States on or after January 1, 1953, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Greece, or by a Greek corporation, is exempt from United States tax under the provisions of Article VI (1) of the convention if such alien or corporation at no time during the taxable year in which such interest is received has engaged in trade or business within the United States through a permanent establishment situated therein. Such interest is, therefore, not subject to the withholding of United States tax at source. As to what constitutes a permanent establishment, see Article II (1)(i) of the convention.

(b) *Exemption not applicable to interest paid by subsidiary corporation to its parent corporation.* Under the exception contained in Article VI (1) of the convention any interest received from sources within the United States and paid by a domestic corporation to a Greek corporation is not exempt from United States tax if such Greek corporation controls, directly or indi-

rectly, at the time the interest is paid more than 50 percent of the entire voting power of all classes of stock of such domestic corporation. The exemption from United States tax provided by Article VI (1) of the convention does not, therefore, apply to such interest paid by such domestic corporation.

(c) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of coupon bond interest to which paragraph (a)(2) of this section is applicable, the nonresident alien who is a resident of Greece, or the Greek corporation, shall for each issue of bonds file Form 1001-G in duplicate when presenting the interest coupons for payment. This form shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor, the name and address of the owner of the interest, and the amount of the interest. It shall contain a statement (i) that the owner is a resident of Greece, or is a Greek corporation, (ii) that the owner is not engaged in trade or business within the United States through a permanent establishment situated therein, and, in the case of interest paid by a domestic corporation to a Greek corporation, (iii) that the owner does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation.

(2) The exemption from United States tax contemplated by Article VI (1) of the convention, insofar as it concerns coupon bond interest, is applicable only to the owner of the interest. The person presenting the coupon or on whose behalf it is presented shall, for the purpose of the exemption from tax, be deemed to be the owner of the interest only if he is, at the time the coupon is presented for payment, the owner of the bond from which the coupon has been detached. If the person presenting the coupon or on whose behalf it is presented is not the owner of the bond, Form 1001, and not Form 1001-G, shall be executed.

(3) The original and duplicate of Form 1001-G shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore

2, Maryland, with the quarterly return on Form 1012. Form 1001-G need not be listed on Form 1012.

(4) To avoid withholding of United States tax at source in the case of interest, other than coupon bond interest, to which paragraph (a)(2) of this section is applicable, the nonresident alien who is a resident of Greece, or the Greek corporation, shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VI (1) of the convention. The letter of notification shall be signed by the owner of the interest, trustee, or agent and shall show the name and address of the obligor and the name and address of the owner of the interest. It shall contain a statement (i) that the owner is neither a citizen nor a resident of the United States but is a resident of Greece, or, in the case of a corporation, that the owner is a Greek corporation, (ii) that the owner has at no time during the current taxable year engaged in trade or business within the United States through a permanent establishment situated therein, and, in the case of interest paid by a domestic corporation to a Greek corporation, (iii) that the owner does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation.

(5) This letter of notification, which shall constitute authorization for the payment of such interest without withholding of United States tax at source, shall be filed with the withholding agent for each successive three-calendar-year period during which such income is paid. For this purpose, the first such period shall commence with the beginning of the calendar year in which such income is first paid on or after January 1, 1954. Each such letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment.

(6) If such letter is also to be used as authorization for the release, pursuant to § 502.7, of excess tax withheld from interest, other than coupon bond inter-

est, it shall also contain a statement (i) that, at the time when the interest was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Greece, or, in the case of a corporation, the owner was a Greek corporation, (ii) that the owner at no time during the taxable year in which such interest was received was engaged in trade or business within the United States through a permanent establishment situated therein, and, in the case of interest paid by a domestic corporation to a Greek corporation, (iii) that the owner did not control, directly or indirectly, at the time when such interest was paid, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation.

(7) Once a letter has been filed in respect of any three-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by the convention in respect to such interest, such taxpayer shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the interest as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(8) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

(d) *Interest paid by domestic corporation to Greek corporation where degree of stock ownership uncertain.* (1) In any case in which a Greek corporation anticipates the receipt of interest from a domestic corporation and the relationship existing between the Greek corporation and the domestic corporation is such as to render uncertain whether,

by reason of the exception contained in Article VI (1) of the convention, the exemption will apply to such interest, the Greek corporation shall not undertake to file any Form 1001-G or letter of notification prescribed by paragraph (c) of this section unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue, Washington 25, D.C., a determination that such Greek corporation does not control, directly or indirectly, more than 50 percent of the entire voting power in the paying corporation. The application to the Commissioner shall contain a full statement of all the facts pertinent to a determination of the question.

(2) As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the Greek corporation has such control of the domestic corporation as to render the exemption provided by Article VI (1) of the convention inapplicable to interest paid by such domestic corporation to such Greek corporation and shall notify the Greek corporation of his determination. The Greek corporation shall forthwith file with the domestic corporation a copy of the Commissioner's letter of notification.

(3) If the Commissioner's determination is that the Greek corporation does not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the domestic corporation, the Greek corporation may thereafter avoid withholding at the source with respect to subsequent payments of such interest by complying with the provisions of paragraph (c) of this section, that is, by submitting Form 1001-G in the case of coupon bond interest, or the letter of notification for each three-calendar-year period in the case of interest other than interest payable by means of coupons.

(4) A determination of the Commissioner that the Greek corporation does not have such control of the domestic corporation as to render the exemption provided by Article VI (1) of the convention inapplicable will apply until such time as the stock ownership of the domestic corporation has changed to the extent that interest to be re-

ceived from the domestic corporation by the Greek corporation is no longer exempt from United States tax under Article VI (1) of the convention. If such change in stock ownership occurs, the Greek corporation shall promptly notify both the Commissioner of Internal Revenue and the domestic corporation of the then existing facts with respect to such stock ownership.

(5) In any case in which a Greek corporation has received on or after January 1, 1954, interest from a domestic corporation and the relationship existing between the Greek corporation and the domestic corporation was at the time the interest was paid such as to render uncertain whether, by reason of the exception contained in Article VI (1) of the convention, such interest was exempt from United States tax, the Greek corporation shall apply to the Commissioner of Internal Revenue for a similar determination as to the degree of control at the time the interest was paid. If the Commissioner's determination is that at such time the degree of control was such as to permit the application of the exemption provided by Article VI (1) of the convention, his letter of notification may, subject to the provisions of § 502.7(b), authorize the release of excess tax withheld with respect to such exempt interest.

§ 502.4 Natural resource royalties and real property rentals.

The convention does not change the rate of United States tax imposed pursuant to sections 871, 881, and 882 of the Internal Revenue Code of 1954 upon natural resource royalties and real property rentals. The withholding of United States tax with respect to such items derived from sources within the United States by nonresident aliens who are residents of Greece, or by Greek corporations, is not changed by the convention.

§ 502.5 Patent and copyright royalties.

(a) *General.* (1) Royalties for the right to use copyrights, patents, designs, secret processes and formulae, trade marks, and other analogous property, and royalties and rentals for the use of industrial, commercial, or scientific equipment, which are derived from

sources within the United States on or after January 1, 1953, by a nonresident alien (including a nonresident alien individual, fiduciary, and partnership) who is a resident of Greece, or by a Greek corporation, are exempt from United States tax under the provisions of Article VII of the convention if such alien or corporation at no time during the taxable year in which such income is derived has engaged in trade or business within the United States through a permanent establishment situated therein. Such royalties are, therefore, not subject to the withholding of United States tax at source. As to what constitutes a permanent establishment, see Article II(1)(i) of the convention.

(2) The provisions of this section shall have no application to rentals or royalties in respect of motion picture films.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the income to which paragraph (a) of this section is applicable, the nonresident alien who is a resident of Greece, or the Greek corporation, shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article VII of the convention. The provisions of § 502.3(c) (other than those pertaining to the degree of control of voting power) relating to the execution, filing, and effective period of the letter of notification prescribed therein with respect to interest, including its use for the release of excess tax withheld, are equally applicable with respect to the income falling within the scope of this section.

(2) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 502.6 Private pensions and life annuities.

(a) *General.* Private pensions and life annuities, as defined in Article XI (3) and (4) of the convention, derived from sources within the United States on or after January 1, 1953, by a nonresident alien individual who is a resident of

Greece are exempt from United States tax under the provisions of Article XI(2) of the convention. Such items of income are, therefore, not subject to the withholding of United States tax at source.

(b) *Application of exemption from withholding.* (1) To avoid withholding of United States tax at source in the case of the items of income to which paragraph (a) of this section is applicable, the nonresident alien individual who is a resident of Greece shall notify the withholding agent by letter in duplicate that such income is exempt from United States tax under the provisions of Article XI of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Greece.

(2) If such letter is also to be used as authorization for the release, pursuant to § 502.7(a), of excess tax withheld from such items of income, it shall also contain a statement that the owner was, at the time when the income was derived from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Greece.

(3) This letter shall constitute authorization for the payment of such items of income without withholding of United States tax at source unless the Commissioner of Internal Revenue subsequently notifies the withholding agent that the tax shall be withheld with respect to payments of such items of income made after receipt of such notice. If, after filing a letter of notification, the owner of the income ceases to be eligible for the exemption from United States tax granted by the convention in respect to such income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of such income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

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(4) Each letter of notification, or the duplicate thereof, shall be immediately forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland.

§ 502.7 Release of excess tax withheld at source.

(a) *General.* (1) In order to give the convention effective application at the earliest practicable date, the exemptions from withholding of United States tax at source granted by this part are hereby made effective beginning January 1, 1954, contingent upon compliance with the applicable provisions of §§ 502.2 through 502.6.

(2) In the case of dividends and interest paid by a Greek corporation to a recipient other than a citizen, resident, or corporation of the United States, if United States tax at the statutory rate has been withheld on or after January 1, 1954, there shall be released by the withholding agent and paid over to the person from whom it was withheld, an amount equal to the tax so withheld from such items.

(3) In the case of every taxpayer whose address at the time of payment was in Greece and who furnishes to the withholding agent the letter of notification prescribed in §§ 502.3(c), 502.5(b), and 502.6(b) as authorization for the release of excess tax withheld, if United States tax at the statutory rate (30 percent as of the date of approval of this part) has been withheld on or after January 1, 1954, from interest (other than coupon bond interest), copyright royalties and other items to which § 502.5(a) is applicable, and from private pensions and life annuities as defined in Article XI, there shall be released (except as provided in paragraph (b) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld from such items.

(4) In the case of every taxpayer whose address at the time of payment was in Greece and who furnishes to the withholding agent Form 1001-G clearly marked "Substitute" and executed in accordance with § 502.3(c), if United States tax at the statutory rate has been withheld from coupon bond interest on or after January 1, 1954, there

shall be released (except as provided in paragraph (b) of this section) by the withholding agent and paid over to the person from whom it was withheld an amount equal to the tax so withheld from such interest. One such substitute form shall be filed in duplicate with respect to each issue of bonds and will serve with respect to that issue to replace all Forms 1001 previously filed by the taxpayer in the calendar year in which the excess tax was withheld and with respect to which such excess is released.

(5) The original and duplicate of substitute Form 1001-G shall be forwarded by the withholding agent to the District Director of Internal Revenue, Audit Division, Alien Returns Section, Baltimore 2, Maryland, with the quarterly return on Form 1012. Substitute Form 1001-G need not be listed on Form 1012.

(6) The provisions of this section (other than paragraph (c) of this section) shall have no application to excess tax withheld at source which has been paid by the withholding agent to the district director of internal revenue.

(b) *Interest paid where degree of stock ownership is determined.* If United States tax at the rate of 28 percent or 30 percent, as the case may be, has been withheld on or after January 1, 1954, from interest paid by a domestic corporation to a Greek corporation whose address at the time of payment was in Greece, and if the relationship existing between the Greek corporation and the domestic corporation, was, at the time the interest was paid, such as to render uncertain whether, by reason of the exception contained in Article VI (1) of the convention, such interest was exempt from United States tax, the withholding agent shall release and pay over to the Greek corporation an amount equal to the tax so withheld only if the Greek corporation (1) furnishes to the domestic corporation a copy of the Commissioner's authorization of release prescribed in § 502.3 (d) and (2) files the letter of notification prescribed in § 502.3(c), or the substitute Form 1001-G prescribed in paragraph (a) of this section, whichever is applicable.

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(c) *Amounts withheld during 1953.* For provisions respecting the refund of excess tax withheld during the calendar year 1953, see § 502.10.

§ 502.8 Information to be furnished in ordinary course.

(a) *General.* In compliance with the provisions of Article XVIII of the convention the Commissioner of Internal Revenue will transmit to the Greek General Director of Direct Taxes, as soon as practicable after the close of the calendar year 1954 and of each subsequent calendar year during which the convention is in effect, the following information relating to such preceding calendar year:

(1) The duplicate copy of each available Form 1042 Supplement filed pursuant to paragraph (b) of this section; and

(2) The duplicate copy of each available ownership certificate, Form 1001-G, filed pursuant to § 502.3(c), and substitute Form 1001-G, filed pursuant to § 502.7 (a) and (b), in connection with coupon bond interest.

(b) *Information return.* (1) To facilitate compliance with Article XVIII of the convention, every United States withholding agent shall make and file in duplicate with the district director of internal revenue for the district in which the withholding agent is located an information return on Form 1042 Supplement, with respect to Greek addressees, which shall be filed for the calendar year 1954 and subsequent calendar years. This return shall be filed simultaneously with Form 1042.

(2) There shall be reported on such Form 1042 Supplement all items of fixed or determinable annual or periodical income (and, for 1955 and subsequent years, amounts described in section 402(a)(2), section 631 (b) and (c), and section 1235 of the Internal Revenue Code of 1954, which are considered to be gains from the sale or exchange of capital assets) derived from sources within the United States and paid to nonresident aliens (including nonresident alien individuals, fiduciaries, and partnerships) and to nonresident foreign corporations, whose addresses at the time of payment were in Greece, including such items of income upon which, in accordance with this part, no

withholding of United States tax is required; except that any of such items which constitute interest in respect of which Form 1001-G or substitute Form 1001-G has been filed in duplicate with the withholding agent are not required to be reported on such Form 1042 Supplement.

§ 502.9 Beneficiaries of a domestic estate or trust.

A nonresident alien who is a resident of Greece and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from United States tax granted by Articles VI, VII, and IX of the convention with respect to dividends, interest, and copyright royalties and the like, to the extent such item or items are included in that portion of the income of such estate or trust which is (or would, but for such exemption, be) includible in the gross income of the beneficiary, provided that he otherwise satisfies the requirements of these respective articles. In order to be entitled in such instance to the exemption from withholding of United States Tax such beneficiary must otherwise satisfy such requirements and shall, where applicable, execute and submit to the fiduciary of such estate or trust in the United States the appropriate letter of notification prescribed in §§ 502.3(c) and 502.5(b).

§ 502.10 Refund of excess tax withheld during 1953.

(a) If United States tax withheld at the source during the year 1953 from dividends, interest, copyright royalties and the like, pensions, or life annuities is in excess of the tax imposed under the internal revenue laws, as modified by the convention, a claim by the taxpayer for the refund of any overpayment resulting therefrom shall be made under subchapter B of chapter 66 of the Internal Revenue Code of 1954 by filing Form 843 together with Form 1040NB, Form 1040NB-a, Form 1040B, Form 1120, or Form 1120NB, whichever is applicable, or with an amended return.

(b) The taxpayer's total gross income from sources within the United States, including every item of capital gain subject to tax under the provisions of

section 211(a)(1)(B) or 211(c) of the Internal Revenue Code of 1939, shall be disclosed on the return. In the event that securities are held in the name of a person other than the actual or beneficial owner, the name and address of such person shall be furnished with the claim. In the case of a claim involving an overpayment of tax upon dividends or interest paid by a Greek corporation, a statement that the dividends or interest were paid by such a corporation shall be included in the claim. If the claim relates to other interest, copyright royalties and the like, pensions, or life annuities, there shall also be included in such claim:

(1) A statement that, at the time when such item or items of income were derived from which the excess tax was withheld, (i) the taxpayer was neither a citizen nor a resident of the United States but was a resident of Greece, or, in the case of a corporation, (ii) the taxpayer was a Greek corporation;

(2) A statement that the taxpayer at no time during the taxable year in which such income was derived was engaged in trade or business within the United States through a permanent establishment situated therein; and

(3) In the case of a claim involving an overpayment of tax upon interest paid by a domestic corporation to a Greek corporation, a statement that the Greek corporation, at the time when the interest was paid, did not control, directly or indirectly, more than 50 percent of the entire voting power of all classes of stock of the United States domestic corporation. If the relationship existing between the Greek corporation and the domestic corporation at the time when such interest was paid was such as to render uncertain whether the exemption granted by Article VI (1) of the convention is applicable to such interest, there shall be furnished a full statement of all the facts pertinent to a determination of the question.

(c) If, however, the taxpayer is an individual who during the taxable year derived from sources within the United States income which consists exclusively of pensions or life annuities entitled to the benefit of Article XI of the convention, the statement specified in

paragraph (b)(2) of this section shall not be required.

PART 503—GERMANY

Subpart—Withholding of Tax

Sec.

503.1 Introductory.

503.2 Dividends.

503.3 Interest.

503.4 Patent and copyright royalties and film rentals.

503.5 Private pensions and private life annuities.

503.6 Release of excess tax withheld at source.

503.7 Information to be furnished in ordinary course.

503.8 Beneficiaries of a domestic estate or trust.

503.9 Land Berlin.

AUTHORITY: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

SOURCE: Treasury Decision 6122, 20 FR 682, Feb. 1, 1955, as amended at 25 FR 14021, Dec. 31, 1960, unless otherwise noted.

EFFECTIVE DATE NOTE: By T.D. 8734, 62 FR 53497, Oct. 14, 1997, part 503 was removed, effective Jan. 1, 1999. By T.D. 8804, 63 FR 72183, Dec. 31, 1998, the effective date was delayed until Jan. 1, 2000. By T.D. 8856, 64 FR 73408, Dec. 30, 1999, the effective date was delayed until Jan. 1, 2001.

Subpart—Withholding of Tax

§ 503.1 Introductory.

(a) The income tax convention between the United States and the Federal Republic of Germany, signed on July 22, 1954, and proclaimed by the President of the United States on December 24, 1954, referred to in this part as the convention, provides in part as follows, effective for taxable years beginning on or after January 1, 1954:

ARTICLE I

(1) The taxes referred to in this Convention are:

(a) In the case of the United States of America: The Federal income taxes, including surtaxes and excess profits taxes;

(b) In the case of the Federal Republic: The income tax, the corporation tax and the Berlin emergency contribution (Notopfer).

(2) The present Convention shall also apply to any other income or profits tax of a substantially similar character which may be imposed by one of the contracting States